



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY, SUITE 620
NASHVILLE, TENNESSEE 37243
615-741-1831**

**July 9, 2007
Room 640, Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met July 9, 2007, at 1:00 p.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 640. Chairman Marc Headden called the meeting to order, and the following business was transacted.

COMMISSION MEMBERS PRESENT

Dr. Richard Evans
Marc Headden
William R. Flowers, Jr.
James E. Wade, Jr.
John Bullington
Sam Pipkin
Luther Bratton
Jason West

COMMISSION MEMBERS ABSENT

STAFF MEMBERS PRESENT

Nikole Urban, Administrative Director
Bethany Heuer, Staff Attorney

ADOPT AGENDA

The commission voted to adopt the agenda. Mr. Bullington made the motion to accept the agenda and it was seconded by Mr. Pipkin. Motion carried unopposed.

MINUTES

The May 2007 minutes were reviewed. Mr. Bullington made the motion to accept the minutes as written. It was seconded by Mr. Flowers. Motion carried unopposed.

GENERAL BUSINESS

Complaint Status

Mr. Headden wanted to note for the record that in the past year 125 complaints have been closed by the Tennessee Real Estate Appraiser Commission. As of July 9, 2007 there were 35 open complaints.

Election of New Officers

Mr. Pipkin nominated Commissioner Flowers for the position of Chairman and nominated Commissioner Wade for the position of Vice-Chair. Mr. Bratton seconded that motion. The motion carried unanimously.

Education Committee Report

Dr. Evans made recommendation to approve the Education report as submitted by staff, with the exception of the individual course approval requested by Charles Thrower. Mr. Thrower had requested approval of Appraisal Principles and Techniques, however, Dr. Evans stated Mr. Thrower only obtained an examination score of 60% and the required passing score for Tennessee is 70%. Mr. Thrower has also requested approval of a fifteen (15) hour USPAP course, but the course was taken in 2003 and Dr. Evans stated this course was too old to be used for qualifying education. The third course requested for approval by Mr. Thrower was a Real Estate Finance course. Dr. Evans stated this course was predominately a Real Estate course and did not focus sufficient time to Real Estate Appraisal to be used for qualifying education. Mr. Headden made the motion to deny approval for the three individual course approvals requested by Charles Thrower. Mr. Bullington seconded that motion. The motion carried unopposed. Mr. Pipkin motioned the Commission grant approval to all requests on the Education Report as recommended by Dr. Evans, with the stated exception of the requests of Charles Thrower. Mr. Bullington seconded that motion. The motion carried unopposed. The following are the courses and individual approvals from the education report:

EDUCATION COMMITTEE REPORT JULY 9, 2007

Course Provider	Course Number	Course Name	Instructors	Hours	Credit Type
Allterra Consulting Group	1105	On-Line AVM Fundamentals	Lee Kennedy	7	CE
	1106	On-Line Keynote//Chief Appraiser Panel 1	Various	7	CE
	1107	On-Line Valuation Visionaries/Appraisal Fraud	Various	7	CE
Appraisal Institute	1100	On-Line Appraising Convenience Stores	Robert Bainbridge	7	CE
American Society of Appraisers-Knoxville	1103	Appraising Small Income Residential Properties	Lee F. Butzin	7	CE
Providence Appraisal School	1104	Basic Appraisal Principles	Ivor Shaw	30	Both

Individual Course Approval

Name	Course Provider	Course Name	Hours	Credit Type
Marvin Maes	Marshall & Swift	Cost Approach to Commercial Appraisal	7	CE
Chris Hopper	Appraisal Institute Memphis Chapter	AI Reports-100 Summary Appraisal Report Residential	4	CE
Larry Toombs	Appraisal Institute Memphis Chapter	AI Reports-100 Summary Appraisal Report Residential	4	CE
Jacqueline McDaniel	Appraisal Institute Memphis Chapter	AI Reports-100 Summary Appraisal Report Residential	4	CE
Steve Chipman	Appraisal Institute Memphis Chapter	AI Reports-100 Summary Appraisal Report Residential	4	CE
Deborah Toombs	Appraisal Institute Memphis Chapter	AI Reports-100 Summary Appraisal Report Residential	4	CE

EXPERIENCE INTERVIEWS

Michael Resce made application for certified general appraiser as an out-of-state applicant from a non-reciprocating state. Mr. Headden and Mr. Pipkin were the reviewers and recommended approval of his experience and application after Mr. Resce submits proof of successful completion of an income capitalization course which was completed in 2007, as per the applicant. Mr. Bullington made the motion to accept the recommendation and Mr. West seconded the motion. The motion carried unopposed.

Becca Phillips, attended an experience interview after completion of her first 500 hours of experience. Mr. Wade stated she was a knowledgeable trainee and was well on her way to completion of the experience requirement.

Matthew Meyers, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Pipkin was the reviewer and recommended approval. Mr. Bullington made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Julianne Clark, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Flowers was the reviewer and stated there was a problem with her reports. He stated that although the applicant appeared knowledgeable about the appraisals, Ms. Clark had not signed the appraisal reports nor was there a certification that she contributed significant appraisal assistance. Ms. Clark stated that her supervisor would not let her sign the reports or put her name on them. She stated she was told that by signing the supervising appraiser affidavit and her experience log her supervisor had given sufficient evidence of her work on these reports. Mr.

Pipkin had recommended approval for her experience pending a notarized letter from her supervisor outlining the appraisals that Ms. Clark had completed, but withdrew this recommendation when it was stated by staff that this may not be an acceptable situation for experience credit by the Appraiser Qualification Board (AOB) and the Appraisal Subcommittee (ASC). Ms. Urban recommended verifying acceptability with the AOB and the ASC prior to approval for Ms. Clark. Dr. Evans made a motion to reconsider the above vote due to legal considerations, but withdrew the recommendation after further discussion. The matter was left for a future meeting after staff and legal counsel could determine if the experience could be considered acceptable. Mr. Wade made the motion to open a complaint against the supervising appraiser and Mr. Headden seconded the motion. The motion carried unopposed.

Phyllis Johnson, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Wade was the reviewer. He stated her appraisals were in good order and recommended approval. Dr. Evans made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed. Mr. Bratton stated for the record that he recused from vote on this matter.

Rhonda Leamon, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Bratton was the reviewer and recommended approval. Mr. Pipkin made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

LEGAL REPORT

Bethany Heuer, legal counsel for the Real Estate Appraiser Commission, brought information to the attention of the Commission that was recently supplied to staff regarding Letters of Caution, Letters of Warning, and Letters of Instruction. While the state of Tennessee does not consider these three actions to be disciplinary action, the Appraisal Subcommittee of Congress has notified staff that these actions must be reported to them as disciplinary actions on the monthly Disciplinary Action Report as an action code 1. Ms. Heuer recommended that for all further letters of this nature which are to be sent to Respondents, that language be added to the letter to inform them that the State of Tennessee does not consider this disciplinary, but this action will be reported to the ASC to be included in the Registry information.

The following consent orders and two agreed orders were presented to the Commission for consideration of approval.

William Chandler – Charges were filed in this case, however, Respondent signed an Agreed Order that, in an appraisal completed in 2000, he violated USPAP by failing to identify the intended use or intended user(s) within the appraisal report, which was for ad valorem tax purposes. The TREAC asserts (and Respondent disputes) that the Respondent undervalued the market value of the subject. Respondent has agreed to a civil penalty of \$4,000.00.

Recommendation and reasoning: Concerns were discussed regarding the amount of the civil penalty and that the charges agreed to do not appear sufficient for the complaint. Dr. Evans stated that this settlement would appear as insufficient if members of the public were to review this issue. Mr. Wade made a motion that this matter should be moved to a **formal hearing** and the Agreed

Order should be **rejected**. Mr. Pipkin seconded that motion. The motion carried unopposed. Mr. Bratton and Mr. Headden recused from vote on this matter.

Frank Paschall – signed Consent Order agreeing that he violated USPAP by not sufficiently describing or analyzing the unusual characteristics of the property and failing to properly supervise his trainee who inspected the property. The Respondent's previous disciplinary history was a consideration in this case. Respondent agreed to a **civil penalty of \$5,000.00** and a forty-five (45) hour course in **Report Writing** from a different provider than taken previously.

Gary Paschall – signed a Consent Order admitting he violated USPAP by not sufficiently describing or analyzing the unusual characteristics of the property. Respondent agreed to a **civil penalty of \$1,000.00**, agreed to complete a forty-five (45) hour course in **Report Writing**, and agreed to submit three (3) appraisals (dated after March 12, 2007) to show improvement in describing property characteristics and USPAP compliancy.

Robert Trent Cole – signed a Consent Order admitting he violated the Ethics Rule, Competency Rule, Scope of Work Rule, and Standard Rules 1-1 (b) and (c), 2, 2-1 by misreporting the size of the subject, misreporting the age of comparable one, failing to list the basement and fireplace of comparable one, misreporting the size of comparable two and not reporting the garage and waterfront location, and misreporting the gross living area of comparable three and its lot size. These mistakes affected the market value opinion of the subject property. Respondent has agreed to a **civil penalty of \$1,000.00** and to complete a thirty (30) hour course in **Report Writing** within ninety (90) days and to complete a seven (7) hour **USPAP** course within ninety (90) days (or send verification of completion of a 7 hr. USPAP course taken within the past two (2) years).

Sandy Miller - signed a Consent Order admitting he violated USPAP by providing incorrect information on the subject and on the comparables provided in the report, and by not analyzing the purchase agreement. These mistakes affected the value opinions of the subject property in the sales comparison and cost approaches. Respondent has agreed to a **civil penalty of \$2,000.00** and to complete a thirty (30) hour course in **Report Writing** and a fifteen (15) hour **USPAP** course, both within ninety (90) days.

J.B. Barnett - signed a Consent Order admitting he violated USPAP by inaccurately describing the subject, a church building, by not including the year built for the comparables and reporting two different estimated land values for the property in the Sales Comparison Approach, and by not reporting the previous sale of the subject property, which occurred on November 5, 1997, for Three Hundred Fifty Thousand Dollars (\$350,000.00). Respondent has agreed to **SURRENDER** his real estate appraisal license as of August 1, 2007.

Douglas M. Smith - signed a Consent Order admitting he violated Uniform Standards of Professional Appraisal Practice Rule 2-1(b) by failure to support adjustments in the Sales Comparison Approach and failure to support cost approach value indications. Respondent agreed to take a seven (7) hour Marshall and Swift course (not for continuing education) and a course entitled: Supporting Adjustments in the Sales Comparison Approach. Both Courses shall be completed within 3 months.

Duane Harris - signed a Consent Order admitting he violated Uniform Standards of Professional Appraisal Practice Rules 1-4(a) & (b) and 1-2(e)(i) by using superior comparables in the report and misreporting the quality of construction of the subject property in the report. Respondent agreed to take a seven (7) hour cost approach course (which may be taken online) and which may not count toward continuing education (individual application would be needed) and 30 hours in a Single Family Residential Cost Approach course, which will count towards continuing education credits. Both Courses shall be completed within 3 months. Respondent also has paid a civil penalty of \$1,000.00.

Rick Hyatt- signed a Consent Order, which disposes of three open legal files, admitting he violated USPAP Rule 1-1(c) and the Ethics Rule Conduct Section by releasing misleading appraisal reports. Respondent agreed to take forty-five (45) hours in Case Study Courses on Residential Report Writing, which will count toward his continuing education credits. Respondent also agreed to a civil penalty of \$1,000.00 and agreed to submit a demonstration report to the Commission dated after 7-9-07 in order to show improved appraisal report communications. Respondent agreed to submit a response to the 2007067041 complaint, as well as a copy of the complete appraisal, to the Commission Office. All of the above shall be completed by December 31, 2007.

Vote: The remaining consent orders and agreed order were considered and a vote was taken to encompass all the remaining, with the exception of the William Chandler agreed order noted above. Mr. Pipkin made a motion to approve all the remaining consider orders and agreed orders (except William Chandler). Mr. Bullington seconded that motion. The motion carried unopposed.

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1. L07-APP-RBS-2007062571 - Mr. Bullington was the reviewer.

The complainant, a consumer, alleged that respondent used comparables that were not appropriate. A review obtained by the consumer's lender stated:

- The appraiser provided insufficient support for the value conclusion. The comparables used were not similar in design or acreage.
- Comparable one is located several miles away and is superior in quality and appeal.
- The adjustments made to comparables appeared significantly low and inconsistent with cost approach information for a newer dwelling.
- Comparable two is not an acreage property and is a new construction dwelling.
- Comparable three is a property on a significantly larger acreage site and the site adjustment was very minimal.
- Comparables four and five were over two years old and had no time of sale adjustment.
- Comparables more similar to the subject in acreage and proximity were found by the reviewer.
- The reviewer asserted the property was over-valued.

The Respondent states that he has never been provided a copy of the review done on his appraisal by the lender and cannot analyze their support for that reason. He stated that the lender used an AVM to determine their value. He stated this would be inaccurate because the tax records did not include the correct size of the dwelling, the in-ground pool, nor the pool house. The Respondent stated he cannot rebut the review until he receives the data that the reviewer used to arrive at their conclusion. *Prior complaints: 200602999 – dismissed.*

Recommendation and reasoning: Recommendation for approval of *Letter of Caution* regarding the effective date of the report, the date signed, applying adjustments consistently and a recommendation for improving scope of work statements within the appraisal report, per Mr. Bullington.

Vote: Mr. Pipkin made a motion to approve the recommendation. Mr. Wade seconded that motion. The motion carried unopposed.

2. L07APP-RBS-2007065121 - Mr. Pipkin was the reviewer.

This complainant, a fellow practitioner and consumer, alleges fraud and bias and alleges the comparables were not suitable for a property reported to be in good condition in a suburban area where property values are reported to be increasing. The complainant submitted alternative comparables that she asserted the Respondent should have used/considered. The complainant stated that the comparables used were in inferior condition, design and were located unnecessarily far from the subject and also alleged that the adjustments made for condition were insufficient and other elements of comparison were not adjusted for at all.

The Respondent states that there was no fraud or bias and states as follows:

- The borrower tried to influence his value opinion, which is a violation of law.
- The house is built on a hillside, but that the area below the house can only be considered as crawlspace.
- He reported the condition of the properties and considered the comparables condition which had some deferred maintenance, but also had some improvements.
- He did inspect the comparables from the exterior and verified information with real estate agents.
- Of the eight comparables submitted for reconsideration by the complainant, one was a mobile home, which would not be comparable.
- Seven of the comparables had more or less bedrooms than the subject property, which was a two bedroom home.
- All of the comparables provided by the complainant were sales over six months old.
- The price per square foot used in his appraised value was greater than the average for the subject's market area.

No prior complaint history.

Recommendation and reasoning: Mr. Pipkin stated the complaint was that the property was under-valued and it would be almost impossible to determine, in this situation, if the "best" comparables were used. He stated the comparables used by the Respondent appeared reasonable and supported and recommended **dismissal**.

Vote: Mr. Wade made a motion to approve the recommendation. Mr. Headden seconded that motion. The motion carried unopposed.

3. L07-APP-RBS-2007062291 - Mr. West was the reviewer.

The Respondent's former supervisor filed this complaint. The Respondent was both a trainee and the Managing Broker for the office. The Complainant stated the Respondent began working at

their office seven years ago on the promise that she would remain with the company after her training was completed. The Complainant stated she agreed to sign a noncompete contract at that time, but they did not put one together at that time.

Currently, the Respondent has accumulated enough experience hours and education to go before the Commission and also to take the examination to become an appraiser.

The Complainant states:

- Respondent refused to sign a recent non-compete contract they developed and wanted to renegotiate the conditions of the contract; and then the Respondent resigned.
- Another agent in the office also wanted to resign to go to the Respondent's new office.
- Two days later when Respondent came into the office several of the licenses from the firm were gone and that agent and employee files were missing; the Complainant called the police at that time. Later that day the police officer returned with one of the agents who is also the Respondent's brother-in-law and told them that he was the one who had taken the licenses, but that he did not take any files.
- The Respondent's brother-in-law apologized and resigned.
- Complainant called the Respondent and she stated she had the files with her (she told them that she took the licenses to Nashville to have the agents place on inactive status and to terminate the firm license). The Complainant stated some files were returned, but some personnel files are still missing.
- Respondent had been exhibiting unprofessional behavior such as not showing up for appointments, not making needed corrections to appraisals and transferring the Complainant's electronic signature to her home computer.
- Respondent has some of the appraisals and work files at her home and did not send them to the office.
- The Complainant asks that the Commission request copies of appraisals for experience approval from both the Respondent and the Complainant when the Respondent applies to upgrade and to supply them with a copy of the appraisals she submits so they can verify they have not been altered.

The Respondent responds as follows:

- When she first became a trainee it was discussed to have a contract for pay scale and non-compete contract drawn up, but Complainant did not follow through with this until seven years later when she was ready to upgrade to a certified appraiser. She did take the contract home to look it over, but stated that the contract contained a very restrictive and excessive non-compete clause.
- The Respondent stated she resigned after she was unable to negotiate the contract terms; and she opened a new office with her brother-in-law and another person.
- She told the Complainant's son she had some incomplete MLS award applications and agent files that she was working on at home. She stated that one agent's personnel file had been missing for a year and she did not know where it was. The Respondent stated she left a message on the Complainant's son's cell phone and e-mailed him

about needing to place the agent's licenses in inactive status and retire the firm license until they could get a new broker. She stated she gave them 24 hours notice and then asked her brother-in-law to pick up the agent's licenses so she could take them to the Real Estate Commission to change them to inactive status. She stated she was contacted by the police later that day regarding the missing licenses and files and told them she had the files at her home and the licenses were at the Real Estate Commission. She stated she returned the files to the police officer, except the one that she stated she never had possession of. The Respondent stated she does not have any complete or incomplete appraisals at her home - that all were sent to the office prior to her resignation.

- o She also stated the Complainant owes her several thousand dollars in appraisal fees.

No prior complaint history.

Recommendation and reasoning per Mr. West: this complaint that it was based on issues of pay scale, compensation matters and fee-split arrangements, non-compete agreements, appraisal assignment work-load decisions made by the sponsor, and the resignation process that occurred on May 7, 2007. These business practice situations do not fall under the Commission's jurisdiction. The licenses taken from the office were not appraisal licenses, but real estate licenses, and the person that took the licenses from the office was not the Respondent. The issues that Mr. West found that did appear to fall under the Real Estate Appraiser Commission's jurisdiction were: an appraisal fee returned due to incomplete work, transfer of the primary sponsor's signature by the trainee from the primary sponsor's office to the trainee's computer at home, reference to the appraisal reports being sent from the trainee's home computer to the ordering party bypassing the primary sponsor's office, and the incomplete appraisal assignments which were assigned to the trainee by the sponsor which the files were retained at the trainee's home rather than in the possession of the sponsor. It also appeared the sponsor did not maintain adequate control of the appraisal log or the work for which they were signing off on. Mr. West made a recommendation to decline the sponsor's request of copies of the trainee's work samples as well as those same file copies. He did recommended obtaining a copy of the appraisal log to verify its accuracy.

Staff recommended opening a complaint against the supervisor for failure to maintain sole control of the digital signature.

Vote: Mr. Wade made a motion to dismiss this complaint for lack of USPAP violations and other matters which are outside the purview of the Real Estate Appraiser Commission. Mr. Pipkin seconded that motion. The motion carried unopposed.

4. L07-APP-RBS-2007064271 - Mr. Wade was the reviewer.

The Complainant, a consumer, alleged that the Respondent under-valued his condominium unit. He stated that one of the comparables used by the Respondent was a distressed sale and, in addition, was in "very poor shape". The Complainant referenced additional sales in the development over the past two years and two properties that are "close to getting what they are asking" (listings).

The Respondent stated in his response letter that he contacted the client when it was clear the property would not support the contracted sale price and was then asked to speak to the listing agent. He stated the listing agent said he knew there would be an "appraisal problem" and that the agent sale properties were selling below their "true value". The Respondent stated there were no sales to support such a claim. The Respondent stated that the appraisal is supported with three comparables from the same development with the same number of bedrooms and of the same style. He stated that the comparables the Complainant submitted were not analyzed for specific aspects such as being one story units versus the subject being a two story unit, age, garages, condition, and size. The other two comparables the Complainant referenced, the Respondent stated, were active listings, not sales as of the effective date of the report and they are still active as of the date of the response.

The Complainant responded to the Respondent's letter by stating that both of the listings have contracts on them and that the sales he included supported the appreciation of units in the development.

The appraisal included three sales from the same development of similar size and style. Adjustments were made for condition, size and number of bathrooms. Photos included of the comparables seem to represent these properties as similar to the subject. *No prior complaint history.*

Recommendation and reasoning: Mr. Wade stated in his review of the complaint that the Respondent had provided a reasonable and acceptable appraisal report that meets USPAP and the rules of the Tennessee Real Estate Appraiser Commission. The appraiser did not use sales that were two years prior to the effective date and pending sales as the primary support for the value opinion as desired by the Complainant. The comparables used are in the same development and are similar in age, gross living area, story height, condition, and parking area. The adjustments made by the appraiser appear reasonable and the final value indication appeared well supported. Based on the above reasons, it was the recommendation of Mr. Wade to **dismiss** this complaint.

Vote: Mr. Bratton made a motion to approve the recommendation. Mr. Pipkin seconded that motion. The motion carried unopposed.

5. L07-APP-RBS-2007061501 - The reviewer was Mr. Wade. Re-Present due to additional information (response letter).

The Complainant (Fannie Mae) submitted three appraisal reviews of residential income properties that the Respondent appraised.

In the review of the FIRST RENTAL PROPERTY, the reviewer found that the Respondent used comparable rental properties that were all owned by the borrower/lessor of the subject property (Subject A) and that the Respondent used the subject as one of the comparable rental properties to establish market rent and still reported market rent as higher than it was currently renting. Rental sales included in the appraisal report were also owned by the borrower/lessor. In addition, discrepancies were found between the data included in the report and the MLS information on these properties. The subject was a four (4) unit apartment containing two (2) bedrooms in each unit. The first comparable rental sale used was a single family dwelling, according to the Fannie

Mae reviewer, with 4 bedrooms and 4 bathrooms. The Respondent described this property as a three (3) unit apartment with one (1) bedroom in each unit. The second comparable rental sale was reported to be unused commercial land according to tax records. The Respondent described it as a four (4) unit apartment with one (1) and two (2) bedroom units. The third rental sale was not recorded in MLS information. Public records have it recorded as the sale of two buildings with four (4) units in each building and the location is 10 miles away in a superior market. The Respondent has this property as one (1) four (4) unit apartment located 13 miles away, but does make an adjustment for superior location. The fourth comparable rental sale (also, Subject B) was not recorded as a sale through county records and was not recorded in MLS information. A withdrawn MLS listing at that time indicated it was listed for \$299,000 which encompassed eight (8) properties. The Respondent indicated this as a sale for \$300,000 of one (1) four (4) unit property. The fifth and final rental sale used was a two (2) unit apartment with four (4) bedrooms in the first unit and two (2) bedrooms in the second unit. All of the sales used were 2-4 years prior to the effective date of the appraisal on a rental property in a metropolitan area of Tennessee.

The SECOND RENTAL PROPERTY (Subject B) appraised was used as a sale in the prior appraisal. Both appraisals have the same effective date. Again, the Respondent used all rental properties owned by the borrower/lessor to establish market rent and as sales in the sales comparison approach. The reviewer for Fannie Mae found that the listings used in the appraisal were not active listings as of the effective date of the appraisal the Respondent provided, but had sold significantly prior to that date. Also, the rental information reported in the appraisal appears to be inconsistent with the rent disclosed on the MLS sheets from that time. According to the reviewer for Fannie Mae, comparable two was a six (6) unit apartment, not four (4) as reported, and rented for \$475 per unit, not \$775 as reported. The reviewer stated the market rents reported appeared significantly higher than the range for that market at that time. The same sales were used in the appraisal of Subject B, except that comparable four from the previous appraisal is the subject of this appraisal and was substituted with a different comparable. This comparable, according to the deed, included an adjacent property and there may have been a building on that property at the time of the sale. The other comparables used had the same issues as noted above.

The THIRD RENTAL PROPERTY (Subject C) appraised was used for market rent comparison in the previous two appraisals. The reviewer for the Complainant stated the zoning was misreported and the subject is not a legal use. The Respondent reports this as a four (4) unit dwelling, but the reviewer confirmed that it is a six (6) unit apartment and had been for years. The reviewer stated that all comparables used by the Respondent were two (2) and three (3) unit dwellings and were not comparable. The reviewer stated that first comparable was a single unit dwelling, sale two could not be confirmed that it sold even after four (4) years since the effective date, comparables three and four could not be verified as a sale through public records. All of these sales were from the current borrower/lessor and may not have been market sales, according to the reviewer. The income approach included by the Respondent only included four (4) of the six (6) units that actually existed, according to the reviewer. The reviewer stated they inspected the subject property as part of the scope of work and included photos of the mail boxes and the six (6) electric meters and interior photos of the units.

The Respondent stated in his response letter that he admits some oversights were made on his part, but it was not due to fraudulent intent.

For **Subject A**, he admitted the listings were not current as of the effective date of his report. In regards to the reviewer's comments on discrepancies on the comparable rental data, subject rent schedule, and subject market rent; the Respondent stated that the reviewer was merely speculating and that he had verified this information with the landlord, tenants, and from viewing the leases. He stated he did not retain copies of the leases in the workfile. He stated the subject property was inadvertently left on the report as a rental comparable from a previous report (Subject B), and that the discrepancy noted between the document rents for the subject in the comparable rental second was a typographical error. The Respondent stated that that comparable one was recorded as a three unit building only after the effective date of the report. He stated that the information for comparable two was consistent with tax records and CRS information generated at the time of the report. The Respondent stated that comparable three's information was consistent with assessor's information from that time and was listed as a qualified sale and did not report that it was multiple parcels. For comparable four, he stated that this comparable, also subject B, was verified through an executed contract for deed, but wasn't recorded at the courthouse until three years later, which represents the balloon payment of the original contract for deed. The difference in price was due to the closing costs being included in the contract price. For comparable five, the Respondent stated that the tax records at the time of the report did not indicate the subject being in "above average condition" and this was likely information from the 2007 tax records. The Respondent stated that the reviewer's value opinion appeared to be based on unverified information of sources contained in the original appraisal; the Respondent provided copies of the original data source information.

For **Subject B**, he admitted the listings were not current as of the effective date of his report. He stated that the reviewer's statements regarding discrepancies in the comparable rental data was completely speculative and he stated he obtained the information from the owner, tenants, and leases. He stated he viewed the leases, but did not retain them for his workfile. He stated the speculation of the reviewer that the rent schedule and market rent was too high was also unfounded. The Respondent stated that that comparable one was recorded as a three unit building only after the effective date of the report. He stated that the information for comparable two was consistent with tax records and CRS information generated at the time of the report. The Respondent stated that comparable three's information was consistent with assessor's information from that time and was listed as a qualified sale and did not report that it was multiple parcels. For comparable four he admitted that the reviewer's information was accurate, but "a cursory inspection performed by the appraiser revealed no second structure on the property" and that, "verification by the property assessor's office confirmed that there was at one time a second building on the property, but it has likely long been removed." For comparable five, the Respondent stated that the tax records at the time of the report did not indicate the subject being in "above average condition" and this was likely information from the 2007 tax records. The Respondent stated that the reviewer's value opinion appeared to be based on unverified information of sources contained in the original appraisal; the Respondent provided copies of the original data source information.

For **Subject C**, the Respondent stated he believed the zoning changed after the effective date of the appraisal. He stated at the time of the appraisal the subject property was only a four unit building. He stated when he questioned the owner about the remaining two units he was told they were at one time inhabited, but were now only useable as storage. He stated inspection confirmed

their use as storage. He further stated that all of the comparables used were based on this being a four unit building, not a six unit, and the sales were verified via HUD settlement statements. He stated the salient features of these comparable were garnered from previous appraisal files.

The Respondent concluded that the complaint was predicated on intentional misrepresentation of data, which he denies, and although the reviewer's value opinion has some merit that the true value of the property is not likely as low as the reviewer indicated. He insists he did not violate USPAP.

The Respondent did not comment on the use of comparables and rent information of properties that were owned by the borrower of each of the three appraisals. *Prior Complaint history: 200206934 (Closed with a Letter of Caution); 200504259 (Closed with no further action).*

A recommendation from Mr. Wade was made in June for approval of a formal hearing and approval of a consent order for voluntary surrender of the Respondent's license. A motion was made to approve the recommendation by Mr. Bullington. Mr. West seconded that motion. The motion carried unopposed.

Recommendation and reasoning: Mr. Wade reviewed the response letter submitted by the Respondent and recommended that legal still send out a **consent order for voluntary surrender**, in the interest of settlement of this complaint; and, if not settled, move this complaint forward in the **formal hearing** process. Staff also recommends approval of a **settlement conference**, if needed.

Vote: Mr. Bullington made a motion to approve the recommendation. Mr. Pipkin seconded that motion. The motion carried unopposed.

6. L07-APP-RBS-2007064871 Thaxton Brown

The complainant, an outside agency, alleged Respondent accepted payment for an appraisal of a residence over a month before the complaint was filed, but did not release the appraisal to them and has not returned their repeated phone calls.

The Respondent stated in his response letter that he inspected the property on April 19, 2007, but upon arrival found the property was a double wide manufactured home. He stated his office has a policy of payment prior to release of the appraisal for properties of this type and he informed the lender of such that day. He stated towards the end of May 2007 that he was called by a loan officer wanting the appraisal "transferred." He explained the release required and the pre-payment requirement to this loan officer. A few days thereafter payment was received and was deposited in the bank. At this time his wife experienced complications with her pregnancy and this caused a delay in business on his part. The Respondent stated he has since delivered the appraisal to the client (and has supplied TREAC with a copy) and he explained the situation to the client that caused the delay. He stated he never intended to accept payment for service and not deliver the appraisal.

Complainant replied to this response stating that inspection date was 4-19-07, appraisal ordered 5-5-07 and report received on 7-3-07. Complainant states that the report might be valid up to one and ½ weeks with their lender. Complainant simply states that Respondent provided an "out of date, poor appraisal."

Prior complaint history: 200504148 (Closed with no further action); 200600182 (Closed with no further action).

Recommendation and reasoning: The recommendation from staff is **dismissal** because timeliness of delivery of appraisals is outside the purview of the TREAC and delivery of the appraisal has apparently been completed.

Vote: A motion was made to approve the recommendation by Mr. Pipkin. Mr. Wade seconded that motion. The motion carried unopposed.

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Being no further business, Mr. Bullington recommended adjourning meeting and this motion was seconded by Mr. Pipkin. The motion carried unanimously and the meeting was adjourned at 3:00 p.m.

Nikole Urban, Administrative Director

William R. Flowers, Jr., Chairman